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SUBJECT: US-JAPAN INFORMAL CIVAIR DISCUSSIONS

1. SUMMARY: US AND JAPANESE DELEGATIONS HELD INFORMAL DISCUSSIONS FEBRUARY 5 AND 6 IN HONOLULU ON WIDE RANGE CIVAIR QUESTIONS. AT OUTSET, IT WAS AGREED THAT EITHER SIDE COULD RAISE ANY SUBJECT AND THAT VIEWS WOULD NOT BE CONSTRUED AS REPRESENTING FORMAL POSITIONS. JAPANESE SIDE LISTED ITS POSSIBLE ROUTE OBJECTIVES AND EXPRESSED SUPPORT OF PREDETERMINATION OF CAPACITY RATHER THAN LIBERAL BERMUDA SYSTEM NOW IN EFFECT. IT REITERATED INTERPRETATION THAT US ROUTE RIGHTS AT NAHA ARE SUBJECT TERMINATION AFTER MAY 1977 IF NO AGREEMENT ON OVERALL BALANCE AND COMPENSATION DUE JAPAN REACHED PRIOR THAT TIME. WE NOTED US POSITION THAT BILATERAL DOES NOT PROVIDE FOR SUCH TERMINATION OF RIGHTS AND SAID US MIGHT CONCLUDE IT WAS NOT OBLIGED TO CONSULT ON QUESTION (AS PROVIDED IN MAY 1972 AMENDMENT OF AGREEMENT) IF GOJ PERSISTED IN ITS INTERPRETATION WHICH US FELT WAS
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VIOLATION OF AGREEMENT. OTHER QUESTIONS DISCUSSED WERE CHARTER FLIGHTS, RELATIONSHIP BETWEEN CAPACITY AND RATES, TARIFF ENFORCEMENT, THIRD COUNTRY AIRLINE MALPRACTICES AND INCREASING SHARE OF MARKET, NARITA OPENING, OSAKA AIRPORT

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RESTRICTIONS, NOISE LEVY, AND BEHIND HOMELAND SERVICES.

2. JAPANESE ASKED FOR FURTHER INFORMAL TALKS IN WASHINGTON EARLY APRIL. US SIDE REPLIED IT HAD NO OBJECTION IN PRINCIPLE BUT WOULD HAVE TO REVIEW SITUATION ON RETURN WASHINGTON AND RESPOND SUBSEQUENTLY.

3. TALKS WERE FRIENDLY AND, ON BALANCE, USEFUL IN VIEW USDEL. END SUMMARY.

4. FOLLOWING IS A SUMMARY OF RESULTS OF THE TALKS:

5. FIVE-YEAR PERIOD AFTER OKINAWA REVERSION: JAPANESE REPEATED THEIR OFFICIAL POSITION THAT US RIGHTS AT NAHA WERE SUBJECT TO TERMINATION IF AGREEMENT COULD NOT BE REACHED AT END OF FIVE-YEAR PERIOD AFTER OKINAWA REVERSION (MAY 15, 1977) ON "OVERALL BALANCE OF BENEFITS" AND COMPENSATION DUE JAPAN. US SIDE REPEATED US POSITION THAT OKINAWA REVERSION AGREEMENT DID NOT PROVIDE FOR SUCH TERMINATION AND THAT NEGOTIATING HISTORY ESTABLISHED US VIEW WAS CORRECT. WE SAID THAT US ACCEPTED THAT AGREEMENT REQUIRED CONSULTATIONS, BUT THAT IF GOJ INSISTED ON AN INTERPRETATION WHICH WAS A VIOLATION OF AGREEMENT, US MIGHT CONCLUDE IT WAS NOT OBLIGED TO HONOR AGREEMENT EITHER. FUJII OF FONMIN TOOK EXCEPTION, ARGUING IT WAS NOT NECESSARY RESOLVE INTERPRETATIVE QUESTION NOW SINCE BOTH SIDES EXPECTED AGREEMENT WOULD BE REACHED IN CONSULTATIONS. WE COUNTERED THAT MAIN POINT WAS THAT GOJ STAND COULD BE VIEWED AS A THREAT OF WHAT JAPAN WOULD DO IF NO AGREEMENT REACHED AND THAT, WHILE USDEL WAS NOT TAKING A POSITION, THIS FACTOR WOULD HAVE TO BE TAKEN INTO ACCOUNT BY USG IN DECIDING WHAT POSTURE TO TAKE. DISCUSSION WAS DEFUSED WHEN YAMAJI OF JCAB SAID (HALF HUMOROUSLY) THAT SURELY USG DID NOT EXPECT GOJ TO KICK US AIRLINES OUT OF NAHA. RE DATE FOR CONSULTATIONS, USDEL NOTED THAT LOGICALLY THEY SHOULD TAKE AS CLOSE OF MAY 15, 1977 AS POSSIBLE SI SINCE IT WAS NOT POSSIBLE TO COUNT VALUE OF NAHA TO U.S. AS
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OF THAT DATE UNTIL THAT DATE REACHED. JAPANESE MADE IT CLEAR THEY WANT MUCH EARLIER CONSULTATIONS.

6. JAPANESE ROUTE INTEREST: JAPANESE LISTED FOLLOWING AS POSSIBLE GOJ ROUTE REQUESTS: CHICAGO; SEATTLE; DALLAS AND HOUSTON; MIAMI; BEYOND NEW YORK TO SOUTH AMERICA; BEYOND WEST COAST TO LATIN AMERICA; COTERMINALIZATION OF SAN FRANCISCO AND LOS ANGELES; JAPAN-SAIPAN TURNAROUND RIGHTS; AND BEYOND HONOLULU TO SOUTH PACIFIC. THERE WAS NO SUBSTANTIVE DISCUSSION, BUT IT APPEARED JAPANESE WERE NOT SERIOUS ABOUT WHOLE LIST.

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7. PRICES AND CAPACITY: JAPANESE CITED VARIOUS US ACTIONS, STUDIES, AND ARTICLES WHICH THEY FELT MEANT US

WAS NOW IN FAVOR OF PREDETERMINATION OF CAPACITY. WE COUNTERED ALL OF THESE, SAYING THAT, IN A MAJOR, MATURE MARKET SUCH AS US-JAPAN, PREDETERMINATION WAS AND WOULD REMAIN AN UNNECESSARY AND UNWISE POLICY. WE CONJECTURED THAT, IF SUCH A POLICY HAD BEEN APPLIED IN PAST, US-JAPAN MARKET WOULD NOT NOW BE ONE OF THE WORLD'S LARGEST. WE SAID THAT, IF THERE WERE CURRENT PROBLEMS IN THE US-JAPAN MARKET, IT WAS ERRONEOUS TO CONCLUDE (AS THE JAPANESE SIDE WAS APPARENTLY DOING) THAT THE SOLE CAUSE WAS EXCESS CAPACITY BY US AND JAPANESE AIRLINES. THERE WERE OTHER ECONOMIC FACTORS, SUCH AS PRICING, MALPRACTICES, AND THIRD COUNTRY AIRLINE PENETRATION, WHICH WERE UNDOUBTEDLY INVOLVED. JAPANESE DID NOT DISAGREE, BUT PERSISTED IN DISCUSSING QUESTION IN SOMEWHAT SIMPLISTIC TERMS.

8. CHARTERS: USDEL RECOUNTED FAMILIAR US ARGUMENTS AGAINST RESTRICTIVE JAPANESE CHARTER POLICY. MAIN OVERALL POINT WE MADE WAS THAT THERE WAS A STRIKING CONTRAST BETWEEN LARGE AND IMPORTANT SCHEDULED SERVICE MARKET (WHICH HAD BEEN FOSTERED BY LARGE NUMBER OF ROUTES AND BERMUDA CAPACITY PRINCIPLES) AND SEVERELY RESTRICTIVE JAPANESE QUOTA SYSTEM ON CHARTERS BY US SUPPLEMENTAL AIRLINES. JAPANESE CITED LARGE NUMBER OF CHARTER FLIGHTS BY JAL, NWA, AND PAN AM IN RECENT YEARS. WE NOTED THESE WERE PRINCIPALLY TO HONOLULU, A FACT WHICH PERHAPS SAID
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THAT JAPAN-HONOLULU MARKET WAS RIPE FOR INCREASED CHARTER FLIGHTS. JAPANESE ACKNOWLEDGED ANA'S INTEREST IN GUAM AND HONOLULU CHARTERS BUT WOULD NOT BE DRAWN OUT ON JCAB'S INTENTIONS. THEY ALSO LAID A POTENTIAL CLAIM FOR APPLYING AN UPLIFT RATIO (AS CAB DOES FOR FOREIGN CHARTER AIRLINES) BASED ON FACT US-GUAM AND HONOLULU MARKETS ARE LARGELY JAPANESE ORIGIN.

9. THIRD COUNTRY AIRLINES: BOTH SIDES NOTED THAT THIRD COUNTRY AIRLINES ARE TAKING AN INCREASING SHARE OF JAPAN-US MARKET DUE TO BOTH INCREASED CAPACITY AND MALPRACTICES AND THAT THESE TRENDS WERE UNDESIRABLE. WE SAID US TAKING A TOUGH STAND ON GRANTING JAPAN-US RIGHTS TO THIRD COUNTRIES AND HOPED GOJ WOULD ALSO. BOTH SIDES RECOGNIZED THAT EACH HAD TO PRESERVE ITS OWN FREEDOM OF ACTION SINCE EACH HAD ITS OWN BILATERAL RELATIONSHIPS AND PROBLEMS WITH THE THIRD COUNTRIES. HOWEVER, IT WAS AGREED THAT IT WOULD BE A GOOD IDEA FOR BOTH COUNTRIES TO KEEP ONE ANOTHER INFORMED OF THE STATUS OF THIRD COUNTRY RIGHTS IN ORDER MINIMIZE POSSIBILITY THAT THESE COUNTRIES MIGHT PLAY U.S.

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AND JAPAN AGAINST ONE ANOTHER.

10. NARITA AND OSAKA AIRPORTS: USDEL SAID THAT IT WOULD BE DIFFICULT TO CONSIDER ENLARGED ROUTE AUTHORITY WHEN ABILITY TO EXPAND WAS RESTRICTED BY HANEDA CONGESTION. JAPANESE READILY ADMITTED POINT AND SAID (WITHOUT PROMISING) THEY HOPED NARITA WOULD BE OPENED UPCOMING JAPANESE FISCAL YEAR. RE OSAKA, WE NOTED THAT ONLY NEW RIGHT US HAD OBTAINED FROM JAPAN IN MANY YEARS WAS LANDING RIGHTS AT OSAKA, BUT THESE WERE VIRTUALLY UNUSABLE DUE TO RESTRICTIONS ON NUMBER OF FLIGHTS AND PROHIBITION ON USE WIDE BODIES. JAPANESE ACKNOWLEDGED THIS AND EXPLAINED PROBLEMS CAUSED BY LOCAL RESIDENTS WITH WHOM GOJ HAD TO REACH AN ACCOMMODATION.

11. NOISE LEVY: USDEL REPEATED ARGUMENTS PREVIOUSLY MADE, STRESSING THAT A CHARGE WHICH WAS INTENDED TO COVER THE COSTS OF NOISE SHOULD BE GEARED TO THOSE WHO MAKE THE NOISE, WHICH THE JAPANESE LEVY DID NOT DO. DISCUSSION WAS INCONCLUSIVE.

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12. CURRENT MALPRACTICES: THERE WAS A LENGTHY DISCUSSION OF BREAK-UP IN JANUARY OF THE AIRLINE COMPLIANCE AGREEMENT. JAPANESE IMPLIED PAN AM AND/OR NWA WERE AT FAULT; WE SAID WE HAD HEARD JAL STARTED IT BY REENTERING CHARTER AREA IN BIG WAY. JAPANESE URGED CAB TO ALLOW THREE AIRLINES ONCE AGAIN TO DISCUSS NEW FARE LEVELS AND USG TO ENCOURAGE PAN AM AND NWA TO PLAY BALL. USDEL SAID THAT, SINCE IT WAS NOT FULLY BRIEFED ON SITUATION AND SINCE SOME EVENTS HAD OCCURRED ONLY IN PAST FEW DAYS, IT WOULD HAVE TO REVIEW SITUATION ON RETURN WASHINGTON AND BE IN TOUCH LATER WITH JAPANESE EMBASSY. WE AGAIN STRESSED, HOWEVER, THAT BASIC PROBLEM COULD PROBABLY NOT BE CURED IN LONG TERM SIMPLY BY THROWING INTO THE LAPS OF THE THREE AIRLINES. LONG-TERM SOLUTION HAD TO INVOLVE ESTABLISHING REALISTIC FARE LEVELS, JCAB ENFORCEMENT OF THOSE LEVELS AS WELL AS VALIDITY OF AFFINITY GROUPS ON CHARTER FLIGHTS, AND EFFECTIVE CONTROL OF THIRD COUNTRY AIRLINE MALPRACTICES AND CAPACITY. JAPANESE DID NOT DISAGREE, BUT VIRTUALLY ADMITTED JCAB WAS RELUCTANT OR UNABLE TO GET INTO VIGOROUS ENFORCEMENT DIRECTLY. THEY WERE OBVIOUSLY LOOKING FOR US TO STEP IN ON ENFORCEMENT (WHICH WE SAID WOULD BE HARD TO DO BECAUSE MALPRACTICES TOOK PLACE IN JAPAN) OR TO CONDONE JCAB DISAPPROVAL OF US AIRLINE FARES. WE SAID WE WOULD LOOK INTO COOPERATION ON ENFORCEMENT SIDE, BUT EMPHASIZED PROVISIONS IN BILATERAL RE DISAPPROVAL OF FARES.

13. BEHIND HOMELAND SERVICES: USDEL NOTED US HAD COMPLAINED OVER YEAR AGO ABOUT JAL'S PRACTICE OF HOLDING OUT A

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THROUGH-SERVICE FROM HONG KONG TO US VIA TOKYO. JAPAN'S
ROUTE RIGHTS WERE "FROM JAPAN," NOT FROM HONG KONG. WHILE

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THERE WAS NO OBJECTION JAL OFFERING CONNECTIONS AT TOKYO
(OR EVEN USING SAME AIRCRAFT), IT SHOULD CHANGE FLIGHT
NUMBERS AT TOKYO AND NOT HOLD OUT TO PUBLIC A THROUGH
SERVICE. JAPANESE PROMISED TO LOOK INTO THIS.

14. AT FINAL MEETING, JAPANESE EXPRESSED PREFERENCE FOR
A FURTHER INFORMAL MEETING BEFORE DETERMINING HOW AND WHEN
TO PROCEED TO FORMAL NEGOTIATIONS. THEY PROPOSED MEETING
IN WASHINGTON IN EARLY APRIL TO FOCUS PRIMARILY ON (A) HOW
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OVERALL BALANCE OF BENEFITS SHOULD BE CALCULATED AND WHAT
THIS BALANCE IS, AND (B) ECONOMICS OF TRANSPACIFIC AIR
TRANSPORTATION (E.G., FARES, CAPACITY, AND CHARTERS).
USDEL SAID IT HAD NO OBJECTION IN PRINCIPLE BUT WOULD HAVE
TO REVIEW PROPOSAL ON RETURN TO WASHINGTON AND RESPOND
SUBSEQUENTLY. KISSINGER

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